No. 83-1847

IN THE

Supreme Court of the United States

October Term, 1983

RICHARD I, INC., d/b/a RICHARD I SCHOOL OF BEAUTY CULTURE, EJRY, INC., d/b/a RICHARD I BEAUTY SCHOOL, VIOLET CURRY and DOLORES ECTOR,

Petitioners,

vs.

GORDON AMBACH, as Commissioner of Education of the State of New York, and the Education Department of the State of New York,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK

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Questions Presented for Review

DOES THE JUDGMENT OF THE COURT OF APPEALS OF THE STATE OF NEW YORK DETERMINE A SUBSTANTIAL QUESTION OF PETITIONERS FEDERAL CONSTITUTIONALLY GUARANTEED RIGHTS WHICH SHOULD BE REVIEWED BY THIS COURT?

A. Should this Court review the determination of New York Court of Appeals that the Commissioner of Education proceeded properly and in accordance with State law in requesting the Richard I schools to submit certain statistical data relating to its students?

B. Should this Court review the determination of New York Court of Appeals that the collection of that data in the manner suggested by the Commissioner of Education did not constitute an infringement of a right of privacy or other property interest of either Richard I schools or students Violet Curry and Dolores Ector?

C. Should this Court review the determination of the New York Court of Appeals that respondents' denial of petitioner Richard I schools' application for renewal of licensure did not violate any due process right due the schools?

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Respondents Gordon M. Ambach, as Commissioner of Education of the State of New York, and the Education Department of the State of New York respectfully pray that the petition herein for writ of certiorari to the Court of Appeals of the State of New York be denied.

Opinions Below

The decision of the New York State Court of Appeals is reported at 62 NY 2d 784 and appears at A1-A4 of the petition for certiorari. The Appellate Division decision is reported at 90 AD 2d 127 and appears at pgs. A5-A11 of the petition. The Special Term decision is reported at 109 Misc. 2d 893, 441 NYS 2d 352, and appears at pgs. A12-A20 of the petition.

Jurisdiction

The asserted basis of jurisdiction is 28 U.S. Code, Section 1257(2), based upon an alleged deprivation of a right to due process under the Fifth and Fourteenth Amendments to the United States Constitution. The citation appears to be in error since this is a petition for certiorari and not an appeal.

Statutes Involved

McKinney's Consolidated Laws of New York,
Book 16, Education Law

§214. Institutions in the university

The institutions of the university shall include all secondary and higher educational institutions which are now or may hereafter be incorporated in this state, and such other libraries, museums, institutions, schools, organizations and agencies for education as may be admitted to or incorporated by the university. The regents may exclude from such membership any institution failing to comply with law or with any rule of the university.

§215. Visitation and reports

The regents, or the commissioner of education, or their representatives, may visit, examine into and inspect, any institution in the university and any school or institution under the educational supervision of the state, and may require, as often as desired, duly verified reports therefrom giving such information and in such form as the regents or the commissioner of education shall prescribe. For refusal or continued neglect on the part of any institution in the university to make any report required, or for violation of any law or any rule of the university, the regents may suspend the charter or any of the rights and privileges of such institution.

§313. Discrimination in admission of applicants to educational institutions

(2) Definitions. (a) Educational institution means any educational institution of post-secondary grade subject to the visitation, examination or inspection by the state board of regents or the state commissioner of education and any business or trade school in the state.

(3) Unfair educational practices. It shall be an unfair educational practice for an educational institution after September fifteenth, nineteen hundred forty-eight:

(a) To exclude or limit or otherwise discriminate against any person or persons seeking admission as students to such institution or to any educational program or course operated or provided by such institution because of race, religion, creed, sex, color, marital status or national origin; except that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination or from giving preference in such selection to such members or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained. Nothing herein contained shall impair or abridge the right of an independent institution, which establishes or maintains a policy of educating persons of one-sex exclusively, to admit students of only one sex.

(5) Procedure. (b) Where the commissioner has reason to believe that an applicant or applicants have been discriminated against, except that preferential selection by religious or denominational institutions of students of their own religion or denomination shall not be considered an act of discrimination, he may initiate an investigation on his own motion.

(8) The commissioner shall include in his annual report to the legislature (1) a resume of the nature and substance of the cases disposed of through public hearings, and (2) recommendations for further action to eliminate discrimination in education if such is needed.

§5001. Private schools

3. Application, renewal application and fees. Application and renewal application for a license as a private school, together with financial and statistical reports required by the commissioner shall be filed on forms prescribed and provided by the department.

§5003. Standards for licensed private schools and registered private business schools

2. Expiration of license or registration. a. A license or registration issued pursuant to the provisions of this article shall be valid for a period of two years.

b. An application for renewal of any license or registration shall be submitted at least sixty days prior to the expiration date of the current authorization to operate accompanied by the statutory fee and a statistical and financial report.

c. When timely application for renewal has been made, the existing license or registration shall be deemed to be automatically extended until sixty days after the applicant has been notified that the application for renewal has been granted or denied by the commissioner.

Statement of the Case

This proceeding was commenced in Supreme Court, Albany County, State of New York, on February 17, 1981, and seeks annulment of a determination by respondents denying the Richard I schools' applications for renewal of licensure, and a declaratory judgment that respondents lacked authority to require the Richard I schools to submit statistical data concerning its students.

Petitioners, Richard I schools, hereinafter denominated "schools", are private schools operated by business corporations which are licensed by the New York State Education Department under the provisions of Article 101 of the Education Law (Education Law §§5001-5004) and which offer postsecondary education in cosmetology. Petitioners Voilet Curry and Dolores Ector, hereinafter denominated "students", were students enrolled in petitioners' "schools". Respondents are Gordon M. Ambach, as Commissioner of Education of the State of New York, and the New York State Education Department.

Licenses issued to occupational schools at the time this litigation began were valid for a one-year period. Presently such licenses are valid for periods of two years. Occupational schools are required to obtain new licenses by applying for renewal prior to the termination of each successive license. The application forms require schools to report to the Education Department information relating to various aspects of the school's operations (Education Law §5003, subd. 2). Statistics relating to student placement and retention are examples of the type of information which has been customarily required.

In 1979, respondents revised the forms on which schools were required to report data to the Department. The revised forms, entitled Occupational and Educational Data System (OEDS), require additional categories of statistical information, including information concerning gender, race, and national origin of students in attendance, and information concerning any economic disadvantages or handicapping conditions which might affect students.

All schools subject to the licensing requirements were asked to supply this information. Respondents conducted a number of meetings both with schools and with associations representing schools affected by the new reporting requirements, to explain the basis for the requirements and to assist schools in their efforts to compile and report the data required. Included with the new forms sent to schools due to reapply for licensure were extensive instructions explaining the categories of statistical information to be reported and methods suggested by respondents for obtaining the information sought. The information was to be based upon observation by faculty, and no student could be personally identified (Appendix herein pg. 1).

The Richard I schools refused to submit the additional data or even to complete and submit the new OEDS forms. Although the schools did supply certain information concerning student retention and placement data on the forms in use before 1979, they have repeatedly refused to submit any statistical information concerning the gender or racial and ethnic composition of the student population, or any information concerning possible handicapping conditions or economic disadvantages affecting any students in their schools.

Although the reporting requirements were first implemented in 1979, the Richard I schools were allowed additional time to submit the information. All schools were advised that failure to submit the requested data might result in the denial of their applications for license renewal.

In December of 1980 the schools were given notice that their refusal to submit the requested information constituted a failure to complete the application process necessary for their new licenses. The prior licenses expired 60 days from the date of the notice, as provided in Education Law section 5003, subdivision 2, paragraph 3.

However the licenses were continued in effect during the early stages of the litigation, and on February 22, 1982, the State Education Department amended its regulations, as explained more fully in Point III of the argument. New licenses have been issued to the Richard I schools, and are now in effect. The Department now requires the schools to compile the disputed data and to report data on the gender of enrolled and graduating students. So much of this petition as claims a denial of licensure and of the right to operate schools is academic.

POINT I

State law authorizes respondents to require private schools to submit statistical data concerning students.

The decision and judgment which petitioners seek to review in this Court is grounded upon an interpretation of the laws of the State of New York. Both appellate courts unanimously concluded that respondents acted within their scope of authority under State law, did not proceed in a manner which was arbitrary or capricious or in violation of any State law, and did not deprive petitioner schools or students of any property right under State law.

Conspicuous by its omission from the petition to this Court is any mention of the fact that the statistical information requested from petitioners' schools could not be used to personally identify any of the students in the schools and consequently could not violate any personal privacy right of any student. The information which the schools were asked to supply, and which they refused to supply, was statistical information related to the general composition of the student body.

The New York State Education Department has been granted broad authority by the State Legislature to regulate the operation of licensed private trade schools. Such schools are institutions of post-secondary education and are part of The University of the State of New York (Education Law §214). Section 215 of the Education Law authorizes the Board of Regents and the Commissioner to inspect any institution in the University and to require the submission of such reports as they may need to discharge their respective duties.

The provisions of Article 101 of the Education Law (Education Law §§5001 through 5004), confer on the Education Department exclusive jurisdiction to regulate private schools such as the schools in this proceeding.

Section 5003 of that law requires a school submitting an application for renewal of license or registration to include with the application submitted "... the statutory fee and the annual statistical and financial report". This statutory provision was implemented by the Commissioner in a regulation promulgated in the Official Computation of the Codes, Rules and Regulations of the State of New York (8 NYCRR §126.10[b]).

The provisions of section 313 of the Education Law provide that no educational institution of post-secondary grade regulated by the Board of Regents or the Commissioner of Education may discriminate against applicants on the basis of race, color, sex, creed or national origin. The Commissioner of Education has enforcement responsibilities under these statutory provisions which parallel enforcement procedures available to the State's Division of Human Rights (*New York University v. New York State Division of Human Rights*, 84 Misc. 2d 702).

The Appellate Division and the Court of Appeals of the State of New York unanimously concluded that respondents had ample statutory authority to compel the schools to submit the statistical information requested. Both Courts concluded that the submission of such information to respondents was in furtherance of the Legislative purposes enunciated in section 313 of the Education Law, which require the Commissioner of Education to submit annual reports to the Legislature detailing recommendations for further action to eliminate discrimination in education.

The Appellate Courts concluded that as well as being in legitimate furtherance of a State purpose, the collection of the data requested from the schools was also an obligation imposed upon respondents as a result of the fact that Federal financial assistance benefits students in the State's vocational schools.

POINT II

Student petitioners' privacy rights were not violated.

Petitioners' attempt to justify review by this Court on the basis of a denial of privacy rights is clearly insubstantial. No student is named in or personally identifiable from the general statistical information at issue. No student is required to submit personal data, and the collection of the general data is based upon observations by the school faculty and administrators. There is no allegation that the data is used in any way to affect the attendance or standing or any other right or privilege of any student. This case involves nothing more than the compilation of general statistical data to enable the State to assess the overall racial and ethnic composition of the student bodies in its occupation schools.

Although the schools have articulated complaints concerning what they feel are violations of the student's right of privacy, there is no citation to any Federal Court decision which holds that the collection of data in the manner suggested by respondents in this proceeding constitutes a violation of the privacy rights of any student attending an educational institution.

Federal authorities charged with enforcement of Federal civil rights laws do not consider the compilation of statistical data relating to race, sex, creed or national origin or handicapping condition to constitute an unwarranted invasion of privacy or confidentiality. 34 CFR section 106(c) specifically provides that considerations of privacy or confidentiality will not bar Federal authorities from reviewing or evaluating such statistical data maintained by recipients of Federal funds. Regulations promulgated by agencies charged

with enforcement of the Federal anti-discrimination statutes are entitled to great weight (*Trafficante v. Metropolitan Life Insurance Company*, 409 US 205, 210 [1972]; *Griggs v. Duke Power Company*, 401 US 424, 433-434 [1971]). Federal forums presented with claims that the compilation or collection of such data constitute an unwarranted invasion of privacy have concluded that such data may be collected, and that the privacy rights of those to whom the information relates are not violated thereby (*United States v. New Hampshire*, 539 F2d 277 [First Circuit Court of Appeals [1976]; *Caulfield v. Board of Education*, 449 F. Supp. 1203 [1978], 583 F2d 605 [US Court of Appeals 2nd Circuit (1978)], 486 F. Supp. 862 [1979], 632 F2d 999 [2d Circuit, (1980)], [See particularly 583 F2d 605, pages 610-612]).

Respondents must also take issue with the schools' assertion that they have standing to raise the privacy rights of their students in this proceeding. If any privacy rights are involved in this matter, and respondents contend otherwise, the rights are purely personal to the students. A litigant may assert only his own constitutional rights (*McGovern v. Maryland*, 366 U.S. 420 [1957]), and may not assert the rights of others vicariously (*Broadrick v. Oklahoma*, 413 U.S. 60 [1973]; *California Bankers Association v. Schultz*, 416 U.S. 21 [1974]).

POINT III

The due process claim is moot.

The schools' contention that respondents' denial of their license renewal applications without an evidentiary hearing violates due process is moot. The schools have never ceased operating and therefore have never been deprived of any property right to continue in business.

In the early stages of the litigation, the schools continued in operation by virtue of injunctive relief granted them by the Justice presiding at Special Term of the New York Supreme Court. In February of 1982, in response to the New York Supreme Court's declaration that respondents lacked statutory authority to require schools to submit the disputed data, respondents amended the regulations relating to the reporting requirements. The amendments limited the data required to be reported to statistics concerning enrollment and graduation of students by gender and the numbers of students receiving Federal and State financial assistance. Schools benefitting from Federal financial assistance are required to compile civil rights related data where required by Federal statute.

After the effective date of the amendments, the schools submitted license renewal applications together with the statistical data required under the amended regulations. New licenses were issued and are currently in effect.

Since the schools' due process contention is based upon denial of a hearing in connection with the denial of the application for new licenses, and since the new licenses have in fact been issued, this issue is now moot. Any further decision by this Court on the due process issue would constitute an advisory opinion (*Amalgamated Association v. Wisconsin Employment Relations Board,* 640 US 416 [1951]; *Berry v. Davis,* 242 US 468 [1917]; *Williams v. Simons,* 355 US 49, 57-58). Since this issue has been rendered moot, this Court should not grant the petition for writ of certiorari to review the matter.

POINT IV

The State courts properly concluded that respondents were not required to afford the schools an opportunity for a hearing.

The schools' argument that they should have been afforded a hearing prior to respondents' action denying their applications for renewal of licensure is without merit.

There is a clear distinction between cases in which the State moves to terminate a right to liberty or property which it has conferred and which the holder reasonably assumes to be a continuing right, and cases which involve a newly granted right or the renewal of a right which was granted only for a stated period of time. The former cases involve action of a disciplinary nature, and a due process hearing is required (*Perry v. Sinderman*, 408 U.S. 593 [1972]; *Morrisey v. Brewer*, 408 U.S. 471 [1972]; *Goss v. Lopez*, 419 U.S. 565 [1975]). The latter type of case involves failure to qualify for a right or to meet the standards for its continued exercise, without any allegation of misconduct or any aura of discipline or opprobrium. In these cases no such due process hearing is required (*Board of Regents v. Roth*, 408 U.S. 564 [1972]; *Matthews v. Eldridge*, 424 U.S. 319 [1976]; *Leis v. Flynt*, 439 U.S. 438, 58 L. Ed. 2d 717 [1979]; *Spady v. Mount Vernon Housing Authority*, 34 NY2d 573, 310 N.E. 2d 542, cert den 419 U.S. 983 [1974]).

The State courts correctly determined that in the circumstances presented by this case, no hearing in advance of notification that the license had expired was necessary since the determination was a denial of a renewal application and not the revocation of an existing license (*Matter of Hirsch v. Hastings*, 70 AD2d 1052; *Matter of Wager v. State Liquor Authority*, 4 NY2d 465,

468). The schools did not have a permanent right to operate. The right that they were granted under a State law is a license limited by its express terms and by Education Law section 5003, subdivision 2, to a specified period of time. The denial of the applications for renewal was not a disciplinary action, but resulted solely from the refusal of the schools to submit the materials required to complete the application. Under those circumstances, no formal due process hearing in the nature of a trial was required. The administrative procedure and record provided a full opportunity for the schools to present their position, and a full record for judicial review.

It is also clear from the brief submitted by petitioners in support of their application for a writ that the issues they wish to present at a hearing were not appropriate for a hearing. On page 18 of the petition herein, the schools articulate what they propose to present at the hearing they request. It reads as follows:

> "However respondents denied the request for a hearing, thereby preventing the petitioners from articulating the *moral and practical objections they had to the requirements.* Certainly it would have been an appropriate fact to establish at such a hearing *that petitioners were morally and practically unable, in good faith or with any degree of accuracy, to comply with the directive of the respondents regarding the OEDS forms and the personal data of their students.*" (emphasis supplied).

The only facts which were relevant to the decision herein were that respondents required the schools to submit statistical information, and the schools refused to supply it. Petitioners stated that they were denied a hearing at which they could have raised objections to the reporting requirements. However, the imposition of the reporting

requirement raises questions of law, not questions of fact as to which a hearing might be required. The authority to impose the requirement was reviewable in the State courts, which concluded that respondents have such authority. Certainly no evidentiary hearing is required, even where property rights are at stake, solely for the purpose of arguing the wisdom, efficacy or legality of a requirement imposed by statute or by regulation. A question of compliance or non-compliance with the requirement might have required a hearing, if the underlying issue had been the termination of a property right rather than the denial of a license application. But in this instance the schools admit that they did not comply with the licensing requirement. There is no factual dispute, and hence no issue to be determined by a hearing, even if a hearing were otherwise required by due process of law.

The decision of the New York court below is based upon an interpretation of New York State laws relating to the operation of private trade schools, and not upon an interpretation of Federal constitutional or statutory law. Petitioners have failed to establish any violation of a Federal right.

POINT V

Issues sought to be raised in this Court were not presented to or passed upon by the State courts.

In sections 'B' and 'C' of the argument in the petition, petitioners attempt to raise issues relating to alleged constitutional violations of rights of the schools and the students. Section B claims that constitutional due process rights were violated by the manner in which the schools were advised to collect the data, and section C claims that constitutional due process rights were

violated due to the alleged absence of controls relating to the statistical data collection system. While claims related to the same factual underpinnings were raised in the State courts, it is clear from the record of the proceeding in those courts that they were not presented as questions of Federal constitutional or statutory law. A review of the decisions of the State appellate courts in petitioners' appendix demonstrates that the claims presented in the State courts were framed in terms of claimed violations of State laws and regulation, and were not presented as substantial Federal statutory or constitutional questions.

This Court has often held that a petitioner seeking favorable action on a petition for a writ of certiorari to a State court bears the burden of demonstrating that the Federal questions sought to be raised were squarely presented to and passed upon by the State's highest courts (*Webb v. Webb*, 101 Supreme Court 1889, 451 US 493, 68 Law edition 2d 392, 396-400 [1981]). Failure to properly present a substantial Federal question in the State courts warrants denial of the petition for a writ of certiorari *Webb, supra*, 451 U.S. pgs. 501-502.

In the brief submitted in the schools' appeal to the Court of Appeals of the State of New York, three points were raised. One of them dealt with the schools' claim that they should have been afforded a hearing prior to respondents' denial of the license renewal application. That contention was decided on the ground that the school did not have a property right under State law to which due process protection attached. The other two points raised read as follows:

> "Point 1. Respondents' actions in requiring completion of the OEDS forms and directing school closure for failure to complete the forms were illegal and beyond any statutory or regulatory authority."

> "Point 3. Respondents' actions in requiring completion of the OEDS forms and use of the observational techniques were arbitrary, irrational and unduly intrusive."

These are purely questions of State law and involve no Federal constitutional or statutory considerations.

The Appellate Division decision, which was adopted by the Court of Appeals in its unanimous affirmance, dealt with Point I of the schools' arguments by analyzing State law and regulations relating to respondents' authority to require private schools to submit reports in connection with their license renewal applications, and respondents' affirmative statutory obligations to evaluate and make recommendations to the State Legislature concerning discrimination in the educational system of the State. The Court found this State statutory authority a sufficient basis for respondents to require the schools to submit the statistical information sought in connection with their license renewal applications.

The Court also analyzed the question whether respondents were required under State law to promulgate an additional regulation before the schools could be called upon to submit the statistical information. The Appellate Division based its conclusion that no such regulation was required upon an analysis of the State's Administrative Procedures Act, as interpreted by the New York Court of Appeals (*Matter of Organization to Assure Services for Exceptional Students v. Ambach*, 56 NY 2d 518; *Matter of Rubin v. Campbell*, 48 NY 2d 805). (appendix to petition pages A-7 and A-8).

With respect to the issue discussed in point 3 in petitioners' brief to the Court of Appeals, the appellate Courts both concluded that the schools' complaints were

not warranted, in that the complaints about the manner in which the data was to be collected were based upon a misunderstanding of respondents' suggestions as to the methods to be used, and that the claim that the duty imposed upon them was unduly onerous was totally lacking in merit.

Although Federal regulations relating to respondents' obligation to monitor and evaluate schools whose students received Federal financial assistance were referred to in the Appellate Division decision, they were mentioned merely as an additional reason why the schools should have collected and submitted the statistical information sought. As the State courts found, State law provides a legitimate basis for the data collection requirements, and thus the decision sought to be reviewed herein rests upon an independent and adequate ground under State law.

In the Statement of the Case in the petition there is claim that a Federal question was presented to the State Courts and that such question is contained in paragraphs numbers 16-34 of the petition in the New York Supreme Court. Paragraph 34 does indeed broadly allege that respondents' actions violated petitioners' constitutional rights. However, that claim was not seriously pressed by petitioners, and the total absence of any reference to Federal statutory or constitutional issues in the appellate court decisions reinforces respondents' contention that no Federal question was presented to or passed upon by New York State's appellate courts. The mere conclusory assertion of a violation of constitutional rights without more should not be deemed sufficient reason by this Court to grant a petition for a writ (*Street v. New York*, 394 U.S. 576, 582; *Chicago I. and L.R. Company v. McGuire*, 196 U.S. 128, 131-133; *Bailey v. Anderson*, 326 U.S. 203, 206-207; *Fuller v. Oregon*, 417 U.S. 40).

Furthermore, there must be some affirmative showing in the record that a Federal question was presented to the State Court and that a decision on such question was necessary to a determination of the case. Where this is not clearly indicated, especially because of the presence of an adequate nonfederal ground, jurisdiction should be declined (*Lynch v. New York, ex rel. Pierson*, 293 U.S. 52, 54-55; *Adams v. Russell*, 229 U.S. 353, 358; *Woods v. Nierstheimer*, 328 U.S. 211; *Phyle v. Duffy*, 334 U.S. 431).

Respondents submit that not only was there no Federal question presented to the State courts, but that the State courts' decision of the cause on State law grounds demonstrates that if any Federal question was arguably raised, a decision on that question was not necessary to a determination of the cause. Review by this Court should be declined (*Wood v. Chesborough*, 228 US 672, 676-89; *West Chicago State Railway Company v. Illinois Ex-rel Chicago*, 201 US 506, 519-20).

POINT VI

The petition does not raise any issue which would justify the issuance of a writ of certiorari.

United States Supreme Court Rule 17, 28 U.S.C.A. sets forth additional criteria considered by this Court in exercising its discretion whether or not to grant a petition for a writ of certiorari. Respondents submit that the case sought to be reviewed herein does not satisfy any of the criteria in Rule 17 and presents no question of equivalent importance which might warrant review by this Court.

Petitioners do not claim that the decision of the New York Court of Appeals is in conflict with that of a Federal Court of Appeals, or that New York has decided

a Federal question in a way which conflicts with a decision of another State court of last resort or of a Federal Court of Appeals. There is no showing that the New York Court of Appeals has decided an important question of Federal law which should be reviewed by this Court.

Under this Court's standards the lack of any substantial Federal question should result in the denial of the petition herein.

Conclusion

For these reasons, the petition for a writ of certiorari should be denied.

Dated: June 12, 1984.

Respectfully submitted,

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APPENDIX

Occupational Education Data System (OEDS) Instructions

[55.] OCCUPATIONAL EDUCATION DATA SYSTEM

Specific Instructions

OEDS-7. Enrollment in Licensed Private Schools and Registered Private Business Schools During the 1977-78 Reporting Period: July 1, 1977 through June 30, 1978

Section I—Enrollments by Individual Program

Section I requests information on the number of students enrolled in all programs in this school that are approved by the State Education Department. The number of students in each program should be reported according to the Occupational program titles listed in this section that most closely correspond to their major *program* of study. Students should be reported in one program area only. Do not duplicate enrollment data by reporting the same students in more than one program area. The only *exception* to this direction is students who completed one program during the reporting period and subsequently enrolled in another program during this same reporting period.

Please make sure to identify students according to their major program of study and not according to specific courses that they may be enrolled in.

Reporting Period—All students enrolled in this school in Department approved programs during the period of July 1, 1977 to June 30, 1978 should be included in this report.

Appendix—Occupational Education Data System (OEDS) Instructions.

PLEASE NOTE: STUDENTS ARE CONSIDERED TO BE ENROLLED ONCE THEY HAVE COMMENCED INSTRUCTION

For each of the programs operated by this school (as defined above), students must be reported by the following classifications:

Sex: Male, female

Full-time, Part-time: Students who are considered by this school to be attending an occupational program on a full-time basis should be reported according to sex in columns 1 and 2. All students who are considered by this school to be attending an occupational program on less than a full-time basis should be reported according to sex in columns 3 and 4.

Disadvantagement, Handicapping Condition: In column 5, indicate the number of students reported in columns 1-4 that have academic and/or economic disadvantagements that markedly interferes with their ability to successfully complete their occupational program at this school. Academic disadvantages are defined as a lack of sufficient reading, writing or mathematical skills. Economic disadvantagements which may be considered are (1) unemployment, (2) receipt of public assistance (welfare) under federal state or local programs, (3) institutionalization or State guardianship, (4) family income below established poverty level criteria, or (5) Student Financial Aid Programs (i.e. BEOG, SEOG, TAP, Student Loans).

Appendix—Occupational Education Data System (OEDS) Instructions.

In column 6, indicate the number of students reported in columns 1-4 that have handicapping conditions (other than academic or economic disadvantagements) that markedly interferes with their ability to successfully complete their occupational program. Handicapping [56.] conditions which may be considered are mental retardation, hearing impairments and deafness, speech impairment, visual impairment and blindness, serious emotional disturbances, orthopedic impairments, and other serious health impairments.

Students who have both an academic or economic disadvantagement *and* a handicapping condition should be *reported only once* in the handicapped category.

Section II—Number of Students Enrolled with Limited English-Speaking Ability (LESA)

Of the *total* number of students reported in Section I, columns 1-4, for all programs, indicate the number by sex, whose native tongue is a language other than English or who come from environments where a language other than English is dominant and because of either of these reasons have difficulties speaking and understanding instructions in the English language. Report students as "LESA" only if their language impairment is severe enough for this school to provide special assistance or a modified program in order for the students to successfully complete the program.

Appendix—Occupational Education Data System (OEDS) Instructions.

Section III—Racial/Ethnic Composition of Students Enrolled

Of the total number of students reported in Section I, columns 1-4, for all programs, indicate the number of students identified as belonging to each of the racial/ethnic classifications defined below:

American Indian or Alaskan Native—A person having origins in any of the original peoples of North America.

Black, not of Hispanic Origin—A person having origins in any of the black racial groups.

Asian or Pacific Islander—A person having origins in any of the original people of the Far East, Southeast Asia, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Phillipine Islands and Samoa.

Hispanic—A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

White, not of Hispanic Origin—A person having origins in any of the original peoples of Europe, North Africa, the Middle East, or the Indian subcontinent.

Schools do not have to require students to specify their race or ethnic background and/or maintain this information as part of the student's permanent record. Data to be reported here could be based on the observations of personnel involved in the registration

process at the school or personnel having regular direct contact with the students (i.e. teaching staff, registrar etc.).

If there are any questions regarding the definitions or the instructions for completing any of Sections I, II or III of OEDS-7 please contact Charles DeVoe of the Bureau of Educational Data Systems at either of the following phone numbers 518: 474-3768 or 474-8913. Please provide the name of the person completing this form in the space provided on the cover page of the form and make sure that a file copy of the form is retained by this school.

RICHARD I SCH OF BTY CULTURE

314 WALL STREET

KINGSTON NY 12401

The University o
THE STATE ED
Information
Albany,

OCCUPATIONAL E

Summary Data on Students Complet
Licensed Private Schools and
During the 1978
(July 1, 197

Section II. Program Completers/Leavers with Limited English

A. Program Completers Male

Female

B. Program Leavers Male

Female

Section III. Racial/Ethnic Composition of Program Completers/

A. Program Completers

Number of Program
Ethnic Classificat

American Indian or Alaskan Native	Bl Hi

B. Program Leavers

Number of Program
Ethnic Classificat

American Indian or Alaskan Native	Bl Hi

Name of Perso
I, and III

the State of New York
CATION DEPARTMENT
enter on Education
ew York 12234

OEDS Reporting Form

UCATION DATA SYSTEM
EDS-8

ng or Leaving Occupational Programs at
egistered Private Business Schools
79 Reporting Period
- June 30, 1979

Proficiency (LEP)

Leavers

Completers Identified as Belonging to the Following Racial/
ions:

ack, not of panic Origin	Asian or Pacific Islander	Hispanic	White, not of Hispanic Origin

Leavers Identified as Belonging to the Following Racial/
ions:

ck, not of panic Origin	Asian or Pacific Islander	Hispanic	White, not of Hispanic Origin

Completing Sections
of OEDS-8